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The Government and the Packers

By L. D. H. WELD

Swift & Company, Chicago, Ill.

ONE of the principal reconstruction problems is the question as to how far the government is going to continue the regulation that it has assumed over the industries of the country during war times. The most vital problem is perhaps in connection with the railroads, but the government has extended its functions during the war emergency to a surprising degree in the regulation of prices, the limitation of profits, and the control of industry in general. Many of these restrictions have, of course, disappeared, and the remainder, which were assumed under war powers, will automatically disappear when peace is finally signed; but the experience during the war has accelerated the general tendency towards government supervision of industry which has been developing during the past generation.

The demand for a permanent policy of regulation of industry is especially evident in connection with the packing industry. Since the signing of the armistice there have already been introduced into both Houses of Congress bills providing for the regulation of this industry. These bills confer upon the government the most radical powers of control and even profit and price regulation, and have been receiving serious consideration in the form of hearings before the House Committee on Interstate and Foreign Commerce and a Sub-Committee of the Senate Committee on Agriculture and Forestry.

Although these bills apply to the packing industry, they are of interest to every business man in America, because if Congress should adopt the principles involved with respect to the packing industry, there is no reason why they should not be extended to cover any other industry and trade in the country. Although the proposed legislation can never pass in its present form, it is worth while for us to consider what these bills mean, because there are many people in the country who believe that this legislation should be passed.

INVESTIGATION AND REPORT OF THE FEDERAL TRADE COMMISSION

During the spring of 1917 the President ordered the Federal Trade Commission to make an investigation of the production and distribution of foodstuffs, and during the early summer of that year the commission began its investigation of the packing industry. This investigation has been going on practically all the time that the United States has been in the war, while the packing industry was making an enviable record of war achievement. Swift & Company, at least, promised hearty coöperation with the Federal Trade Commission and promised to throw open its books and accounts for examination.

Public hearings were held under the direction of a special attorney, who practically placed himself in the position of a prosecuting attorney. Although the packers were at liberty to appear at these hearings, subject to the cross-examination of this attorney, it was definitely announced that the packers would not have the right to cross-examine the witnesses produced by the Federal Trade Commission; that they would not be permitted to cross-examine their own witnesses, nor to produce witnesses to controvert, through cross-examination, the statements made by witnesses produced by the Federal Trade Commission.

The examiners took from the private files in the offices of the packing companies, only such scraps of correspondence as would appear to make out a case against the packers. Oftentimes a single letter would be extracted from a file, whereas other letters and documents in the same file would give an entirely different meaning. Even among the letters taken there were many which would controvert the contentions of the commission.

For example, in Part Two of its report on the packing industry, page 89, the Federal Trade Commission describes the practice known as "wiring on"; it is said that, when a shipper is dissatisfied with the prices offered him in one market, and ships to another, the packer's buyer in the first market wires ahead to the same packer's buyer in the second market, stating the price bid at the first market. The Trade Commission says that, "The packer buyers at the second market bid at prices no greater, and often less, than those offered the shipper at the first market, thus causing him to lose the freight and the shrinkage in the weight of his stock." It is, of course, perfectly legitimate for the buyer in the

first market to wire the buyer of the same company in the second market this information, just as is commonly done in all industries, but the Federal Trade Commission tries to make out that it is an illegitimate practice in the live stock trade. The statement that "The packer buyers at the second market bid at prices no greater, and often less," is false. The Trade Commission introduced in its report copies of letters taken from Swift & Company's files which apparently support this statement; Swift & Company has copies of letters which were also taken by the Trade Commission's examiners, which show instances of higher prices paid for animals in the second market than were paid for them in the first market. These the Federal Trade Commission did not publish in its report.

In pages 132-133-134 of Part II of the report, the Trade Commission charges that the large packers had an agreement fixing the price of lard compound, so that identical prices were charged by all competitors. The inference is, of course, that there was an illegal agreement. The truth of this matter was brought out by Mr. J. Ogden Armour in his testimony before the House Committee on Interstate Commerce in which he explained that the price of lard compound at the time under discussion had been fixed at the request of and in coöperation with the Food Administration as a part of its food control program. In other words, the agreement which forced all dealers to sell at the same price was one brought about by the government itself. The Federal Trade Commission failed to mention this fact, and therefore put the packers in an utterly false light.

The Federal Trade Commission bases its charge that the five big packers have a monopoly primarily on the fact that the percentage of live stock receipts bought at the various markets by each packer remains fairly constant from year to year. To a person outside the industry, this phenomenon appears to be fairly convincing; to a packing-house man, however, it is perfectly evident that the fairly constant percentages are a result of keen competition among the packers. Swift & Company, for example, is so jealous of its position in the market that it has kept a record for years of the percentage of receipts that it has purchased, and compares this with the percentages bought by other packers. This company does not intend to yield ground by even a fraction

of one per cent, if possible, and as a matter of fact has increased its percentage since 1913, according to the Trade Commission's own figures, so that it killed about 90,000 more cattle in 1917 than if it had not increased its percentage.

As evidence that there must be an agreement to divide receipts, the Trade Commission reproduces a letter written by P. D. Armour to his uncle J. Ogden Armour from Denver, referring to the situation there as on a "fifty-fifty basis." This merely meant that Armour was aiming to buy at least 50 per cent of the receipts and that he knew that Swift & Company was naturally aiming to do the same thing, as these are the only two large packers having plants at Denver. The Trade Commission introduced a table of percentages on hog purchases at Denver, because it showed that Swift and Armour had bought nearly equal percentages; but the commission failed to introduce similar tables of percentages on cattle and sheep purchases, which it had in its possession, and which showed that Armour had actually been buying only about 45 per cent of the cattle receipts as compared with Swift's 55 per cent, and that there had been striking variations in the percentages of sheep purchased. The inclusion of these tables would have entirely destroyed the effect which the "fifty-fifty" letter was supposed to create.

In connection with the Federal Trade Commission's failure to establish its contention that the five large packers have an agreement to control purchases, sales or prices, it should be noted that the heads of the large packing companies in printed statements and in their testimony before Congressional committees have made the absolute statement that they have no agreements in restraint of trade of any kind and that they are in open and active competition in the purchase of live stock and in the sale of meats.

The contention of the packers themselves that they are in open and active competition is borne out by many facts which were not mentioned at all by the Federal Trade Commission in its report. Perhaps the most convincing evidence of competition is that the profits of the large packers are so small that they could be wiped out entirely without noticeably affecting prices, and that these profits often turn into losses. During the year ended June 30, 1918, there were 19 out of the 52 weeks in which Swift & Company either made no money at all or actually lost money on beef. The

profit varied from 74 cents per hundred pounds (about three-fourths of a cent a pound) during the week of greatest profit, to a loss of \$1.17 per hundred pounds (over one cent a pound) during the week of greatest loss. It is a pretty poor combination that cannot bring about a more favorable effect on profits. The most convincing evidence that was ever found against such corporations as the Standard Oil Company and the American Sugar Refining Company was that which showed the increasing of profit margins at times and in localities when and where competition was lacking. Such a study, if made of the packing industry, would give evidence of the most severe competition and of the absolute lack of any agreement to control prices.

Many other evidences of competition are also omitted from the Trade Commission's report. For example, it is not mentioned that dealers and speculators always stand ready in every market to buy live stock if the price falls below what the live stock is worth. It is not brought out that the so-called small packers are not only very large in number but that many of them are of very respectable size and that they are flourishing and growing in number. Many of these smaller packers appeared voluntarily before Congressional committees in January, 1919, and surprised members of Congress by telling of the immensity of their business and of the satisfactory conditions prevailing. The Federal Trade Commission does not mention the keen competition that is perfectly evident in the sale of meats; that the different packers have branch houses in the same city, that each has its own corps of salesmen and delivery trucks, and that the retail butchers shop around from the branch house of one packer to the branch house of another, finding differences in price for the same quality of meat. Many other evidences of competition might be cited.

RECOMMENDATIONS OF THE FEDERAL TRADE COMMISSION

The Federal Trade Commission did not recommend that the packing industry itself be taken over and operated by the government, but it assumed that the alleged monopoly was due to the control by the packing concerns of the facilities for transporting and marketing live stock and meats. It therefore urged that live stock cars and refrigerator cars, stock yards and cold storage branch houses, now owned by the packers, be taken

over by the government. In general the net result of such a program would be in no way to take away monopoly power, if such really existed, and would merely dissipate and disorganize marketing facilities which are now operated with highest efficiency, and which it has taken the packers generations to develop.

As for refrigerator cars, these were built by the packers because the railroads refused to furnish this expensive equipment. Each of the large packers has a well-organized transportation department which keeps track of its cars throughout the country, sees that they are moved with the greatest expedition, and that they are distributed through the country in accordance with the needs that vary with live stock receipts and with changes in the demand for meats. Swift & Company, for example, has today only about 80 per cent as many cars as it needs, and nothing could possibly be gained by placing these cars under government operation or even under railroad operation in the way of improving the service to packers and to the public. At the very time that the Federal Trade Commission was coming to its conclusions with regard to refrigerator cars, the Interstate Commerce Commission, after a long and thorough investigation, issued a decision (July 31, 1918) in which it specifically upheld the present system of packer ownership, and said that this system had been of the greatest benefit to the country at large. The Interstate Commerce Commission also found that the packers have been operating their refrigerator cars at a financial loss for several years.

As for the government acquisition of stock yards, it has developed in public hearings in Washington that the packers have become interested in these yards, not only because of the possible financial return, but more especially because of the necessity for furnishing such facilities and efficient operation as would insure an adequate supply of live stock to keep their packing houses operating at full capacity. Swift & Company, at least, is perfectly willing to relinquish its ownership in the stock yards in which it is interested, providing that efficient operation can be continued.

The taking over by the government of the packers' branch houses is manifestly out of the question. These branch houses are practically refrigerated salesrooms, and not freight houses, as contended by the Chairman of the Federal Trade Commission in his testimony before the House Committee on Interstate Com-

merce. Goods have to be kept on hand in large quantities and for indefinite periods and have to be sold and delivered in small quantities every day. It also requires the keenest and most energetic management, as well as ability born of long experience, to operate a branch house successfully, especially as it deals almost entirely in highly perishable goods which have to be moved rapidly.

PROPOSED LEGISLATION

Bills have been introduced into Congress, based on the findings of the Federal Trade Commission, and intended to carry out the recommendations enumerated above. The bill introduced in the House (H. R. 13324, 65th Congress, 3rd Session) by Mr. Sims, on December 10, 1918, provides for government acquisition of live stock and refrigerator cars, stock yards and cold storage branch houses, and also provides for the licensing of packing houses, and gives the government blanket and unrestricted powers to do whatever it sees fit with regard to the packing industry. There is absolutely nothing to justify the singling out of the packing industry for such a remarkable and unprecedented method of control or for such a radical departure from American ideals. The bill even aims specifically to give the government the power to dictate what commodities may or may not be handled by the packers. It also gives the government the power to take away the license and thereby put any concern out of business.

The bill which has received consideration in the Senate (S. 5303, 65th Congress, 3rd Session) was introduced by Mr. Kendrick January 7, 1919. This bill does not go so far in providing for government acquisition of cars, stock yards, and branch houses, but provides for a most drastic system of regulation, under license, with the power to revoke the license at will, and is therefore just as objectionable as the bill introduced into the House. It is absolutely unthinkable that either of these bills can ever be passed in anything like their present forms,—and yet it is of extreme significance that they are receiving serious consideration. The public probably does not realize what a revolutionary thing it would be to pass either of these bills, affecting as they do one of the largest and most vital industries in the country.

The demand for special legislative treatment of the packing industry results from a common belief that there is a combina-

tion in restraint of trade among the five largest packers, and that meat prices are too high or that live stock prices are too low (depending on whether one is a consumer or a farmer), because of the large profits of the packers. No satisfactory legislation can be passed on these assumptions. The large packers are not only in active competition with each other, but with hundreds of smaller packers and local butchers.

The fact that profits amount only to a fraction of a cent per pound of meat absolutely disproves the common belief that profits account for high prices of meat or low prices of live stock. The price received by the packers for meat and by-products is never more than enough to cover the cost of live stock and low operating expenses, and to yield tiny unit profits. Because of large volume of business, these small unit profits, which have practically no effect on prices, yield in the aggregate a satisfactory return on investment. But packers' war profits have not been out of line with profits in other industries; they have been no more than sufficient to finance large inventories at extremely high prices, and they have hardly furnished sufficient protection against the fall in prices, and hence in inventory values, that is sure to come.